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53792 7590 03/04/2009 DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY. SUITE 2110 AUSTIN, TX 78759			EXAMINER TRUONG, LAN DAI T	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID ARO BRUTON III, LINWOOD H. OVERBY JR., and
ADOLFO FRANCISCO RODRIGUEZ

Appeal 2008-3191
Application 09/773,811¹
Technology Center 2100

Decided:² March 4, 2009

Before JOHN C. MARTIN, LANCE L. BARRY, and JEAN R. HOMERE,
Administrative Patent Judges.

HOMERE, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ Filed on September 31, 2001. The real party in interest is International Business Machines Corporation.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 9 and 14 through 28. Claims 10 through 13 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

Appellants' Invention

Appellants invented a method and system for selectively allowing a user to access desired resources within a network, wherein each resource is assigned to a security zone based on its security sensitivity. (Spec. 3, ll. 5-19.) As depicted in Figure 2, upon receiving a request from the user to transmit a message to one of the resources on the network, a network administrator determines if the user is authorized to access the security zone associated with the requested resource. (*Id.* 13, ll. 1-11.) The administrator subsequently forwards the message to the targeted resource if the user is authorized to access the security zone associated therewith. (*Id.* 19, l. 27-20, l. 9.)

Illustrative Claim

Independent claim 1 further illustrates the invention. It reads as follows:

1. A method for selectively allowing access to a plurality of resources in a network, the method comprising:

receiving a request originated from a user of a multi-user system to transmit a message via the multi-user system over the network to one of the plurality of resources, wherein each of the plurality of resources has been assigned to one of a plurality of security zones based on a level of security sensitivity of the resource;

identifying a one of the plurality of security zones that is associated with the one of the plurality of resources;

determining if the user of the multi-user system is authorized access to the identified one of the plurality of security zones; and

forwarding the message from the multi-user system over the network only if it is determined that the user is authorized access to the identified one of the plurality of security zones.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Jacobson	US 5,548,649	Aug. 20, 1996
Wallent	US 6,366,912 B1	Apr. 2, 2002

Rejection on Appeal

The Examiner rejects the claims on appeal as follows:

Claims 1 through 9 and 14 through 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Jacobson and Wallent.

Appellants' Contentions

Appellants argue that the combination of Jacobson and Wallent does not render independent claim 1 unpatentable. (App. Br. 6-14, Reply Br. 2-6.) Particularly, Appellants argue, *inter alia*, that Jacobson's filter tables do not teach or suggest determining if a user is authorized to access an identified security zone associated with a resource to which a message is to be sent. (*Id.* App. Br. 10-11, Reply Br. 4-5.) Rather, the filtering is performed solely based on the protocol types or IP addresses, and it is not dependent upon whether a user is authorized to access a particular security zone. (*Id.*)

Examiner's Findings/Conclusions

The Examiner disagrees with Appellants' above position. (Ans. 13.)

II. ISSUE

Have Appellants shown that the Examiner erred in concluding the ordinarily skilled artisan would have found that Jacobson's disclosure teaches or suggests determining if a user is authorized to access an identified security zone associated with a resource to which a message is to be sent, as recited in independent claim 1.

III. FINDINGS OF FACT

The following findings of fact (FF) are supported by a preponderance of the evidence.

Jacobson

1a. As shown in Figure 1, Jacobson discloses a local bridge (104-1) for facilitating encrypted communication between local hosts (102-1, 102-2) in a first zone (108-1) and remote hosts (102-3, 102-4, 102-5, 102-6, 102-7) in a second secure zone (108-2)/third secure zone (108-3) via remote bridges (104-2, 104-3) in a multi-user network. The bridges (104-1, 104-2, 104-3) also facilitate un-encrypted communication between the local hosts in the first secure area and remote hosts (102-8, 102-9, 102-10) in non-secure areas. (Col. 1, ll. 44-63, col. 3, ll. 49-65.)

1b. As shown in Figures 2 and Figures 4a through 4c, the local bridge (104-1) contains a data packet forwarder (211) that reviews an IP address filter table 222 (decision block 428) in a library (216) to determine whether the data packet received from a host should be deleted. (Col. 6, ll. 13-45, col. 6, l. 66 - col. 7, l. 18.)

IV. PRINCIPLES OF LAW

Obviousness

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie*

obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.”) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

Section 103 forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1734 (2007).

In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” and discussed circumstances in which a patent might be determined to be obvious. *KSR*, 127 S. Ct. at 1739 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)). The Court reaffirmed principles based on its precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 1740.

The Federal Circuit recently recognized that “[a]n obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not.” *Leapfrog Enters., Inc. v. Fisher-Price*,

Inc., 485 F.3d 1157, 1161 (Fed. Cir. 2007) (citing *KSR*, 127 S. Ct. at 1739). The Federal Circuit relied in part on the fact that Leapfrog had presented no evidence that the inclusion of a reader in the combined device was “uniquely challenging or difficult for one of ordinary skill in the art” or “represented an unobvious step over the prior art.” *Id.* at 1162 (citing *KSR*, 127 S. Ct. at 1741).

V. ANALYSIS

Independent claim 1 recites in relevant part determining if a user is authorized to access an identified security zone associated with a resource to which a message is to be sent.

As set forth in the Findings of Facts section, Jacobson discloses a data packet forwarder that determines whether an IP source address associated with an incoming data packet should result in deletion of the data packet or further consideration for transmission to another host. (FF. 1b.) We find that the cited disclosure suggests, at best, that the data packet forwarder is capable of determining whether a data packet sent by a user, as identified by the IP source address, is to be deleted. Such determination disqualifies the user from accessing any security zone based solely upon the nature or the origin information provided in packet, and irrespective of the destination information designated therein. That is, Jacobson’s disclosure falls short of teaching or suggesting that the data packet forwarder determines whether the first host is allowed to access the particular security

zone associated with a destination location designated in the data packet. Therefore, we agree with Appellants that Jacobson does not teach determining whether a user is authorized to access an *identified one* of a plurality of security zones, as recited in claim 1.

. Since we agree with at least one of the arguments advanced by Appellants in the Briefs, we need not reach the merits of Appellants' other arguments. It follows that Appellants have shown that the Examiner erred in finding that the combination of Jacobson and Wallent renders independent claim 1 unpatentable.

For these same reasons, we also find that Jacobson does not teach a second data structure that specifies the *respective* security zones to which a plurality of users may have access, as recited in independent claim 25.

Because claims 2 through 9, 14 through 24, and 26 through 28 also recite similar limitations, we find that Appellants have also shown error in the Examiner's rejections of those claims.

VI. CONCLUSION OF LAW

Appellants have shown that the Examiner erred in concluding that the combination of Jacobson and Wallent renders claims 1 through 9, and 14 through 28 unpatentable.

Appeal 2008-3191
Application 09/773,811

VII. DECISION

We reverse the Examiner's decision to reject claims 1 through 9 and 14 through 28.

REVERSED

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